

Robert A. Bleicher (Bar No. 111334)
rbleicher@carr-mcclellan.com
J. Craig Crawford (Bar No. 238466)
ccrawford@carr-mcclellan.com
CARR McCLELLAN P.C.
216 Park Road
P.O. Box 513
Burlingame, California 94011-0513
Telephone: (650) 342-9600
Facsimile: (650) 342-7685

Attorneys for Defendant
Deutsche Bank National Trust Company

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re
JAMES L. MACKLIN,
Debtor.

Case No. 10-44610
Chapter 7
DCN: JLM-1

JAMES L. MACKLIN,
Plaintiff,
v.
DEUTSCHE BANK NATIONAL
TRUST CO., AS INDENTURE
TRUSTEE FOR THE ACCREDITED
MORTGAGE LOAN TRUST 2006-2
ASSET-BACKED NOTES, et al.,
Defendants.

Adv. Pro. No. 11-02024-E

**DEUTSCHE BANK NATIONAL TRUST
COMPANY REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF ITS
OPPOSITION TO PLAINTIFF'S MOTION
TO REOPEN ADVERSARY
PROCEEDING**

**[Fed. R. Bankr. P. Rules 5010, 9024; Fed. R.
Civ. P. Rule 60(b), (d)]**

Date: February 26, 2015
Time: 1:30 p.m.
Judge: Hon. Ronald Sargis
Courtroom: 33

TO PLAINTIFF JAMES L. MACKLIN AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Deutsche Bank National Trust Company respectfully requests that the Court take judicial notice of the following facts. A court may take judicial notice of facts that are not subject to reasonable dispute in that they are capable of

1 accurate and ready determination by resort to sources whose accuracy cannot reasonably be
2 questioned. Fed. R. Evid. 201. Accordingly, judicial notice is properly taken of matters of public
3 record, including pleadings, orders and other papers on file in the action or another action pending
4 in the court, as well as records and reports of administrative bodies. *See Intri-Plex Technologies,*
5 *Inc. v. Crest Group, Inc.*, 499 F.3d 1048, 1052 (9th Cir. 2007); 21 Charles Alan Wright &
6 Kenneth W. Graham, Jr., *Federal Practice & Procedure: Evidence* § 5106, at 505 (1st ed. 1977 &
7 Supp. 1997).

8 1. Complaint filed by James Macklin in Placer County Superior Court, Case No.
9 SCV26905 on April 2, 2010, a true and correct copy of which is attached as **Exhibit A** hereto.

10 2. Defendant Deutsche Bank National Trust Company (hereinafter “DBNT”) Notice
11 of Removal of Action filed on May 3, 2010 in United States District Court, Eastern District of
12 California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which is attached as
13 **Exhibit B** hereto.

14 3. DBNT’s Motion to Dismiss the Complaint filed on May 7, 2010 in United States
15 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
16 copy of which is attached as **Exhibit C** hereto.

17 4. James Macklin’s First Amended Complaint filed on June 4, 2010 in United States
18 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
19 copy of which is attached as **Exhibit D** hereto.

20 5. DBNT’s Answer filed on June 24, 2010 in United States District Court, Eastern
21 District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which is
22 attached as **Exhibit E** hereto.

23 6. DBNT’s Motion for Summary Judgment filed on August 20, 2010 in United States
24 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
25 copy of which is attached as **Exhibit F** hereto.

26 7. Order by Judge Kendall J. Newman entered on October 6, 2010 in United States
27 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
28 copy of which is attached as **Exhibit G** hereto.

1 8. James Macklin's Motion for Leave to File Second Amended Complaint and
2 Proposed Second Amended Complaint filed on April 15, 2014 in United States District Court,
3 Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which
4 is attached as **Exhibit H** hereto.

5 9. Order by Judge Kendall J. Newman entered on July 1, 2014 in United States
6 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
7 copy of which is attached as **Exhibit I** hereto.

8 10. DBNT's Motion to Dismiss the Second Amended Complaint filed on July 21,
9 2014 in United States District Court, Eastern District of California, Case No. 10-cv-01097 MCE-
10 KJN, a true and correct copy of which is attached as **Exhibit J** hereto.

11 11. James Macklin's Opposition to DBNT's Motion to Dismiss filed on August 4,
12 2014 in United States District Court, Eastern District of California, Case No. 10-cv-01097 MCE-
13 KJN, a true and correct copy of which is attached as **Exhibit K** hereto.

14 12. DBNT's Reply on Motion to Dismiss the Second Amended Complaint filed on
15 August 14, 2014 in United States District Court, Eastern District of California, Case No. 10-cv-
16 01097 MCE-KJN, a true and correct copy of which is attached as **Exhibit L** hereto.

17 13. Findings and Recommendations by Judge Kendall J. Newman entered on
18 September 8, 2014 in United States District Court, Eastern District of California, Case No. 10-cv-
19 01097 MCE-KJN, a true and correct copy of which is attached as **Exhibit M** hereto.

20 14. James Macklin's Objection to Magistrate Newman's Findings and
21 Recommendations filed on September 22, 2014 in United States District Court, Eastern District of
22 California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which is attached as
23 **Exhibit N** hereto.

24 15. Order by Chief Judge Morrison C. England, Jr. adopting Magistrate Newman's
25 Findings and Recommendations on December 29, 2014 in United States District Court, Eastern
26 District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which is
27 attached as **Exhibit O** hereto.

28 16. Judgment entered on January 14, 2015 in United States District Court, Eastern

1 District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct copy of which is
2 attached as **Exhibit P** hereto.

3 17. James Macklin's Rule 60 Motion filed on January 22, 2015 in United States
4 District Court, Eastern District of California, Case No. 10-cv-01097 MCE-KJN, a true and correct
5 copy of which is attached as **Exhibit Q** hereto.

6
7 Dated: February 12, 2015

CARR McCLELLAN P.C.

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9 By: /s/ Robert A. Bleicher

10 Robert A. Bleicher
11 Attorneys for Defendant
12 Deutsche Bank National Trust Company
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